

General Terms and Conditions

1 October 2019

Wageningen University – Chamber of Commerce number: 09215846
Stichting Wageningen Research – Chamber of Commerce number: 09098104

These General Terms and Conditions have been adopted by Wageningen University and Stichting Wageningen Research and have been filed with the Chamber of Commerce for Central Gelderland in Arnhem, the Netherlands.

These General Terms and Conditions apply to research and other assignments given to WUR, to the express exclusion of the client's general terms and conditions, however named.

Article 1 Definitions

Background Knowledge: any technical information, including data, materials, tools, software, algorithms, knowledge, models, methods, processes and techniques (as well as any intellectual property rights pertaining thereto) to which client or WUR were entitled before the agreement commenced and any such information generated thereafter by the client or WUR outside the scope of the Work.

Netherlands Code of Conduct for Research Integrity: the principles of this code are leading in the case of (research) assignments. Standard 12.b under chapter 3.2 of this code, and, consequently, standard 10.b under chapter 5.4 of this code will be left unapplied by WUR.

Confidential Information: any Background Knowledge, the Quotation, the Project Plan, business information (including legal, financial and commercial information) and personal data which the receiving party has received from the disclosing party in connection with the agreement and (1) which is designated by the disclosing party as confidential or (2) which the receiving party reasonably can know or should know is confidential.

Project Plan: description of the Work to be performed by WUR, including any modifications thereof agreed on later by the client and WUR.

Quotation: the offer by WUR to the client to perform Work for a certain price.

Report: a written or electronic document providing a description of the Work performed and the Results.

Results: the data, materials, tools, software, algorithms, knowledge, models, methods, processes and techniques resulting from the Work, excluding Background Knowledge.

Work: work to be performed by or for WUR and/or work of a tangible nature to be created based on a Project Plan agreed on by the client and WUR.

WUR: Wageningen University & Research, a partnership between the legal entities Wageningen University and Stichting Wageningen Research.

For purposes of these General Terms and Conditions, 'WUR' will mean the department(s) and/or research institute(s) indicated in the Quotation.

Wageningen University includes the following departments:

- Agrotechnology and Food Sciences;
- Animal Sciences;
- Social Sciences;
- Environmental Sciences;
- Plant Sciences.

Stichting Wageningen Research includes the following research institutes:

- Wageningen Economic Research;
- Wageningen Environmental Research;
- Wageningen Food and Biobased Research;
- Wageningen Livestock Research;
- Wageningen Plant Research;
- Centre for Development Innovation;
- Wageningen Food Safety Research;
- Wageningen Bioveterinary Research;
- Wageningen Marine Research.

Article 2 Conclusion and content of the agreement

2.1

The agreement between the client and WUR will be concluded through acceptance of the Quotation by the client, either in writing or electronically, within the period stated in the Quotation. The agreement will take effect on the start date mentioned in the Quotation and, in the absence thereof, on the date on which WUR received the acceptance. If, with the client's consent, WUR has started performing the Work, the content of the Quotation will be regarded as agreed on, and the start date for the Work will be considered the start date for the Quotation.

2.2

The agreement will be carried out in accordance with the Quotation and the Project Plan.

2.3

Conducting investigations into the existence of third-party patent rights or the patenting options will not constitute part of the agreement. If conducting investigations as referred to above has expressly been agreed on in writing, WUR will not in any way assume liability for the content and results of these.

Article 3 Performance of the Agreement

3.1

In performing the agreement, WUR will aim to achieve a Result that is useful for the client (reasonable efforts obligations). The Project Plan will be drawn up and the Work

will be performed within the frameworks of the Netherlands Code of Conduct for Research Integrity, which describes general principles of good scientific practice. Results and conclusions may not be influenced by clients' interests or wishes.

3.2

Any periods indicated in the Quotation or Project Plan will be estimates. WUR will not be in default through the mere lapse of a period. If WUR anticipates that a period may substantially be exceeded, WUR will notify and consult with the client.

3.3

WUR is not obliged to commence or continue the Work until all information, data, materials, equipment or other items to be provided by the client to WUR have actually been furnished to WUR in the agreed form, quantities and/or quality. Delays in furnishing the aforementioned items will entitle WUR to set a revised schedule, as well as to pass on to the client the costs incurred due to waiting periods.

3.4

WUR may replace employees performing the Work with other employees. WUR may engage third parties to perform (part of) the agreement (under WUR's responsibility).

3.5

The client and WUR will inform each other of details which become apparent while performing the agreement or during the performance of the agreement, and which in all reasonableness are expected to be relevant to the other party.

3.6

If the Work relates to materials provided by the client, the client will be responsible for the selection, representativeness, designations of codes and brand or product names, identification, date of sampling and other relevant information regarding the materials to be researched.

3.7

If reasonably possible, WUR will keep materials (or the remnants thereof) which are furnished to WUR in connection with the performance of the agreement for two weeks after the date on which the Results in that respect were reported or delivered to the client. If the client has not arranged to pick up the aforementioned materials or have them sent back within this period, WUR may take appropriate measures at the client's expense.

Article 4 Reporting

4.1

WUR will report to the client on the progress of the Work in accordance with the Quotation or Project Plan. If not

agreed otherwise, the reporting will occur in writing or electronically.

4.2

Results and Reports will be deemed to have been accepted by the Client if WUR has not received written objections within four (4) weeks after they were sent.

Article 5 Price and payment

5.1

Any amounts mentioned by WUR in the Quotation or Project Plan will be in euros, and exclusive of turnover tax and other taxes and levies.

5.2

Unless agreed otherwise in the Quotation, the amount mentioned in the Quotation will be a fixed price. WUR may index the costs of the portion of the Work not yet performed each January 1st in accordance with the annual adjustment of the rates applicable at WUR.

The costs for additional work may only be charged on to the client if the client has agreed to this in writing or electronically beforehand.

5.3

WUR will invoice the price in conformity with the schedule included in the Quotation. In the absence of such schedule, WUR may demand pre-payment and/or issue interim invoices. Invoices must be paid by the client within thirty (30) days of the invoice date.

5.4

If an invoice has not been paid within thirty (30) days of the invoice date in conformity with Article 5.3, WUR may increase the invoice amount by contractual default interest of one percent (1%) per month or portion thereof. WUR may charge the collection costs to the client as well.

5.5

Rights will be granted or transferred to the client under the suspensive condition that the client has fully paid to WUR all amounts owed in connection with the agreement.

Article 6 Confidential Information

6.1

The receiving party must treat the Confidential Information as confidential, keep it secret and not use it for any other purpose than performing the agreement. In performing the agreement, WUR may disclose Confidential Information to other departments and research institutes of WUR under the same conditions as referred to in this Article 6.

6.2

The obligations in Article 6.1 will not apply to Confidential Information as to which the receiving party can

demonstrate:

- was already in the public domain at the time it was furnished or, has become public thereafter through no fault on the part of the receiving party;
- was already in receiving party's possession at the time it was furnished to it;
- was obtained from a third party not under any obligation of confidentiality and, to the best of recipient's knowledge, did not originate from the disclosing party;
- was obtained from its own research, without the Confidential Information received having been used in any way.

6.3

The obligations arising from Article 6.1 will not apply if and insofar as they are inconsistent with WUR's statutory duties and obligations or WUR foresees a serious threat to people, property, the environment or public health in in that respect. In these instances, WUR will, if possible, consult with the client before disclosing the Confidential Information.

6.4

The receiving party may disclose the Confidential Information if and insofar as it is required to do so under the law or an order by a judicial body, administrative body or a government institution. In such case, the receiving party will immediately inform the disclosing party of this, so the disclosing party will have the opportunity to intervene and possibly prevent disclosure.

6.5

Results will be considered WUR's Confidential Information and must therefore be treated by the client in conformity with this Article 6.

6.6

The obligations concerning Confidential Information will continue to apply for five (5) years after the agreement ends.

Article 7 Background Knowledge and Results

7.1

WUR and the client will each remain entitled to their Background Knowledge. Except for purposes of performing the Work, the parties do not grant each other any rights to use the Background Knowledge.

7.2

WUR will be entitled to any improvements or modifications to WUR's Background Knowledge, unless such an improvement or modification is the express purpose of the Work.

7.3

WUR will hold the rights to the Results and will be solely

entitled to the intellectual property rights to these Results (and will have the exclusive right to apply for such rights). The client will provide any necessary cooperation to WUR with respect to filing an application for an intellectual property right.

7.4

Within the scope of the Work described in the Quotation and/or Project Plan, the client will receive a non-transferable, non-sub-licensable and non-exclusive right to use the Results, as well as the right to reproduce Reports and other documents in its entirety and solely for internal use.

7.5

WUR will always retain the right to use the Results for internal research purposes and teaching.

Article 8 Publication

8.1

Subject to the provisions in Article 6, WUR may publish the Results. During the term of the Work, WUR will submit a proposed publication of the Results to the client in writing.

If WUR has not received a written response from the client within thirty (30) days after written notice of the proposed publication to the client, the client will be deemed to have consented to the proposed publication.

A substantiated written request by the client to postpone publication will be granted if the proposed publication of the Results also includes client's Confidential Information. WUR will delete the Confidential Information from the proposed publication in that case. Publication will be permissible afterwards.

8.2

The client may not publish a Report or Result issued by WUR (or cause this to be published) in whole or in part without WUR's prior written permission. 'Publication' will also include providing Reports or Results to third parties for inspection, use for judicial proceedings, advertising and canvassing in a more general sense.

8.3

The parties may not use each other's name or logos in any connection whatsoever, with the exception of WUR's right to state, in publishing the Results, the name of the client as the party financing the research.

Article 9 Liability

9.1

WUR's total liability ensuing from or relating to the agreement will be limited to at most the amounts paid by the client to WUR in connection with the Work.

9.2

WUR will not be liable for loss or damages that the client suffers on account of the client's use of the Results or on account of negative publicity, nor will WUR be liable for lost turnover, lost profits, reputational damage, or the loss of data and/or materials.

9.3

The foregoing liability limitations will not apply if and insofar as liability was caused by wilful misconduct or deliberate recklessness on WUR's part.

9.4

WUR will not assume any liability for loss or damages resulting from defects in items supplied to WUR, such as software, which WUR re-supplies to the client, unless and insofar as WUR can recover this damage from its supplier.

9.5

Any claim against employees or persons engaged by WUR will be precluded. Employees and persons engaged by WUR may always invoke this third-party clause stipulated for their benefit.

9.6

The client will indemnify WUR against third-party claims relating in any way to the Work performed by WUR for the client or ensuing from the use of the Results. The client will indemnify WUR against third-party claims ensuing from the use of items or data that the client has provided to WUR in performing the agreement.

Article 10 Force majeure

If WUR or the client cannot fulfil its contractual obligations due to a situation of force majeure, the party concerned may suspend its obligations while this situation exists, provided the other party has explicitly been informed in writing immediately after the situation arises. 'Force majeure' will refer to situations which impede performance of the agreement, which are not the fault of the party experiencing the force majeure situation, and for which this party is not liable pursuant to the law, legal acts or generally accepted standards, including, but not limited to, the absence of personnel because of illness and the loss of animals or plants used in performing the agreement.

Article 11 Termination

11.1

If a party breaches an obligation ensuing from the agreement and performance has not become permanently impossible, the other party will offer the breaching party a reasonable period for correction through written notice to the breaching party. If the breaching party is in default, the other party may – without prejudice to the right to compensation – immediately rescind the agreement through a registered letter, unless the breach, in light of its

special nature or minor significance, does not justify rescission with its consequences. If the agreement has duly been rescinded, any claims of the rescinding party against the breaching party will become immediately due and payable.

11.2

The parties will only be entitled to terminate the agreement immediately through a written letter in the following instances:

- a. if the other party is declared insolvent or is granted a suspension of payments, or a request to that effect has been filed;
- b. if the other party's business is liquidated or shut down;
- c. if a situation of force majeure – as stated in Article 10 – is present, and this situation has lasted longer than ninety (90) days.

11.3

In the event of interim or other termination or rescission of the agreement, the parties will still be bound by Articles 1, 2.3, 6, 7, 8, 9 and 11.3 of these General Terms and Conditions, all of this – if applicable – for the period stated in the relevant article.

Article 12 Miscellaneous

12.1

Any claims by the client for compensation will lapse twelve (12) months after the Work to which these claims pertain was performed.

12.2

Changes to these General Terms and Conditions or the Quotation (including additional work) will only be valid if they have been agreed on by the parties in writing or electronically.

12.3

If it turns out that a party cannot invoke one or more provisions of these General Terms and Conditions at law, the agreement and the terms and conditions applicable to it will otherwise remain in force. If the situation described above occurs, the aforementioned provision will be replaced with a provision that, in terms of the substance, approximates the object and effect of the provision replaced as much as possible.

12.4

The client may not transfer the rights and obligations under this agreement to a third party without WUR's prior written permission, which permission will not unreasonably be withheld. WUR may transfer the agreement to any legal successors. A transfer will not affect the confidentiality obligations agreed on by the parties.

12.5

If different documents are inconsistent with one another, the following order of priority will apply: (1) Quotation; (2)

General Terms and Conditions and (3) Project Plan.

Article 13 Disputes and applicable law

13.1

The agreement and legal relationships between WUR and the client are governed by Dutch law.

13.2

Any disputes that arise in connection with the agreement or later agreements ensuing from it will be settled by the Gelderland District Court, Arnhem location.